

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.2294 of 2022

Udayanath Rath

.... ***Petitioner***
Mr. K. Mishra, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
Mr. P.K. Pattnaik, A.G.A.

CORAM:
JUSTICE G. SATAPATHY

ORDER

30.11.2022

Order No.

- 03.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. This is an application U/S. 439 of Cr.P.C. by the Petitioner No. 1 for grant of bail in connection with Special Task Force P.S. Case No.30 of 2021 corresponding to Spl. Case No.200 of 2021 pending in the file of learned Sessions-cum-Special Judge, Balasore for commission of offences punishable U/Ss. 21(c)/29 of NDPS Act, on the allegation of possessing 2Kg 402grams of brown sugar with co-accused person.
 3. In the course of hearing of the bail application, Mr. K. Mishra, learned counsel for the Petitioner-Udayanath Rath submits that nothing has been recovered from the exclusive and conscious possession of the Petitioner and the impugned order discloses that brown sugar has been recovered from the possession of co-accused person and, thereby, the Petitioner having not found in exclusive possession of any contraband articles and detained in custody since long may kindly be enlarged on bail.

4. On contrary, Mr. P.K. Pattnaik, learned A.G.A. strongly opposes the bail application of the Petitioner by inter-alia contending that around 495Grams of brown sugar was recovered from the personal search of Petitioner which is coming under commercial quantity and Section 37 of NDPS Act would operate as a Bar for release of the Petitioner on bail.

5. Considering the rival submissions made, the nature and gravity of accusations raised against the Petitioner as also the gravity of offence alleged and taking into consideration the other surrounding circumstance including the allegation of recovery of 495Grams of brown sugar from the exclusive possession of the petitioner and keeping in view of the alleged recovery of commercial quantity of brown sugar to the tune of 2Kg 402grams from all the accused persons and taking into consideration that when the learned A.G.A. has opposed the bail application of the Petitioner, this Court considers it difficult to record satisfaction on a conspectus of materials placed on record that there are reasonable grounds for believing that the accused is not guilty of such offence and he is unlikely to commit offence while on bail which is the mandate of Section 37 of NDPS Act, this Court considers it undesirable to grant bail to the Petitioner.

6. Hence, the bail application of the Petitioner stands rejected.

7. Accordingly, the BLAPL stands disposed of.

8. Issue urgent certified copy of the order as per Rules.

(G. Satapathy)
Judge